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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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8384

7590

08/25/2006

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EXAMINER

SKURDAL, COREY NELSON

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/799,812	<b>Applicant(s)</b> KUHN, DANIEL W.	
	<b>Examiner</b> Corey N. Skurdal	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Oath/Declaration***

1. It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "container" of claim 5 and 29, and "the wall" forming the bottom of the upper compartment and the top of the lower compartment of claim 24 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because the "single integral backpack 300" is not labeled in figure 3 as cited by the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

4. The disclosure is objected to because of the following informalities: page 1 line 20 should read "does not insulate and does not provide"; page 2 line 27 should read "for use in carrying items"; page 4 line 98 should read "the upper compartment 103."

Appropriate correction is required.

***Claim Objections***

5. Claim 1 is objected to because of the following informalities: line 129 should read "attached to the lower compartment." Appropriate correction is required.

6. Claim 2 is objected to because of the following informalities: lines 133 and 134 should read " and a first surface of the lower compartment." Appropriate correction is required.

7. Claim 7 is objected to because of the following informalities: line 144 should read "can be separated from the lower compartment." Appropriate correction is required.

8. Claim 24 is objected to because of the following informalities: line 176 should read "and is attached to the lower compartment." Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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10. Claims 24-26, 28-36, and 38-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Geiben (US 3,902,640).

Regarding claims 24 and 26, Geiben discloses a backpack with a lower compartment 2 formed from a rigid material 3 and rigid structure 4, the lower compartment having a top wall 12 which forms the bottom of an upper compartment (area above wall 12), the upper compartment also being formed from rigid materials 3 and 4. Geiben further discloses upper and lower compartments that form an ergonomic continuous surface between 22 and 23. Attached to the continuous surface are shoulder straps 19 and waist strap 30.

Regarding claim 25, Geiben discloses a wall 12 that serves as a shelf when the backpack is upright.

Regarding claim 28 and 29, Geiben discloses an upper door, considered section 1, mounted to the upper compartment by hinges 6 whereby when the section is lifted the inner volume is accessible through the door. Attached to the door 1 is a container accessible through lid 7.

Regarding claim 30, Geiben discloses lower door 14 for accessing the inner volume of lower compartment 2.

Regarding claims 31-32 and 38-39, Geiben discloses upper and lower compartments that may be formed of single or multiple materials, column 3 lines 34-36, wherein the compartments may be thermally insulated by layer 17.

Regarding claims 33 and 40, Geiben discloses a backpack which is water tight, column 1 line 47 and 53, such that at least one layer of the pack is impermeable to fluid, making the upper and lower compartments resistant to the escape of fluid.

Regarding claims 34-36 and 41-43, Geiben discloses the backpack support structure and body as being made from metal, plastic, or any suitable rigidized fabric, column 5 lines 4-10. Furthermore Geiben specifically calls for use of "a light weight metal such as aluminum or magnesium or a rigid plastic," column 2 lines 23-25.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-4, 7-14, 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaisdell et al. (US 5,184,763) in view of Pinkham et al. (US 3,064,867).

Regarding claim 1, Blaisdell discloses the invention substantially as claimed including a lower compartment 21 with a top wall and with waist strap 25 and an upper compartment 22 with a bottom wall and with shoulder straps 24. The upper compartment is shown to removeably stack on top of the lower compartment by joint 13 such that back surfaces at 23 and 28 form a generally continuous surface. Blaisdell does not specifically define the device as being formed from a rigid material. However, Pinkham teaches the use of a rigid aluminum backpack 10 for the purpose of providing

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a pack which is "sturdy and durable in construction." Therefore it would have been obvious to one skilled in the art at the time of invention to make the pack of Blaisdell from rigid aluminum in order to provide a pack for which protects its contents.

Regarding claim 2 and 3, the modified Blaisdell device discloses the claimed invention with padded back surfaces 23 and 28 which form an ergonomic continuous surface for supporting the pack against a person's back.

Regarding claim 4, Blaisdell does not disclose the use of an upper door mounted to the upper compartment for accessing the inner volume. However, Pinkham teaches the use of a door 16 at the top of compartment 11 for the purpose of accessing the interior. Therefore it would have been obvious to one skilled in the art at the time of invention to provide Blaisdell with an upper door mounted to the upper compartment 22 in order to provide easy access to the contents of the container.

Regarding claims 7 and 8, the modified device of Blaisdell discloses the claimed invention wherein when the upper and lower compartments are separated, "the lower module 21 can be used as a waist pack" and the "upper module 22 can be used as a day pack," see column 3 lines 59-61.

Regarding claim 9, the modified device of Blaisdell is capable of being used in the claimed manner. With the waist strap removed and the compartments separated, the lower compartment forms a generally horizontal surface such that with a heat source placed inside, the compartment could be used for cooking, effectively satisfying the claim.



Regarding claims 10-14 and 17-21 the modified Blaisdell device discloses the claimed invention wherein the upper and lower compartments are formed from at least one layer of material, that layer being aluminum with an insulating property.

Furthermore, as Pinkham discloses "a water tight pack" (column 2 line 52), the modified Blaisdell device includes a layer of material that is impermeable to fluid and resistant to the escape of fluid.

13. Claims 5, 6, 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaisdell et al. in view of Pinkham et al. and in further view of Geiben.

Regarding claim 5, the modified device of Blaisdell discloses the invention substantially as claimed as applied to claims 1 and 4 above, but does not disclose a container attached to the upper door of the upper compartment. However, Geiben discloses an upper door, considered section 1, wherein a container is attached to the door 1 accessible through lid 7. Therefore it would have been obvious to one skilled in the art at the time of invention to make the upper door of the modified Blaisdell device with an additional container in order to provide extra storage.

Regarding claim 6, the modified device of Blaisdell discloses the invention substantially as claimed as applied to claim 1 above, but does not disclose a lower door mounted to the lower compartment. However, Geiben teaches the use of lower door 14 for accessing the inner volume of lower compartment 2. Therefore it would have been obvious to one skilled in the art at the time of invention to provide the modified device of Blaisdell with a lower door in order to gain easy access to the lower compartment.

Regarding claims 15 and 22, the modified device of Blaisdell discloses the invention substantially as claimed as applied to claims 1 and 10 above, but does not disclose the use of a plastic layer. However, Geiben teaches the use of a rigid backpack which may be formed of a variety of materials and layers, including a rigid plastic, (column 2 lines 23-25). Therefore it would have been obvious to one skilled in the art at the time of invention to provide the modified Blaisdell device with a plastic layer in order to make the backpack cheaper and easy to manufacture.

14. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blaisdell et al. in view of Pinkham et al. and in further view of Watt (US 5,462,213). The modified device of Blaisdell discloses the invention substantially as claimed as applied to claim 1 above, but does not disclose the use of support elements attached to the bottom of the lower compartment. However, Watt teaches the use of support elements 50 for creating a steady base for holding the pack in the upright position. Therefore it would have been obvious to one skilled in the art at the time of invention to provide the modified Blaisdell device with support elements at the lower compartment base in order to create a stable base.

15. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blaisdell et al. in view of Pinkham et al. and in further view of Hodosh (US 5,924,303). The modified device of Blaisdell discloses the invention substantially as claimed as applied to claim 1 above, but does not disclose the use of cylindrical container holders formed in the top of the upper compartment. However, Hodosh teaches the use of can and bottle holders 15 and 16 located in the top of a receptacle with a carrying strap. Therefore it

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would have been obvious to one skilled in the art at the time of invention to provide the modified Blaisdell device with cylindrical container holders in order to create additional holders for cans, bottles and the such.

16. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Geiben in view of Blaisdell. Geiben discloses the invention substantially as claimed as applied to claim 24 above, but does not disclose the use of padding attached to the continuous surface. However, Blaisdell teaches the use of padding 23 and 28 for the purpose of improving the users comfort. Therefore it would have been obvious to one skilled in the art at the time of invention to provide Geiben with padding on the continuous surface in order to increase the comfort of the backpack.

17. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Geiben in view of Watt (US 5,462,213). Geiben discloses the invention substantially as claimed as applied to claim 24 above, but does not disclose the use of support elements attached to the bottom of the lower compartment. However, Watt teaches the use of support elements 50 for creating a steady base for holding the pack in the upright position. Therefore it would have been obvious to one skilled in the art at the time of invention to provide Geiben with support elements at the lower compartment base in order to create a stable base.

18. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Geiben in view of Hodosh (US 5,924,303). Geiben discloses the invention substantially as claimed as applied to claim 24 above, but does not disclose the use of cylindrical container holders formed in the top of the upper compartment. However, Hodosh

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teaches the use of can and bottle holders 15 and 16 located in the top of a receptacle with a carrying strap. Therefore it would have been obvious to one skilled in the art at the time of invention to provide Geiben with cylindrical container holders in order to create additional holders for cans, bottles and the such.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee et al. (US 6,629,629) discloses a rigid backpack. Billet (US 5,921,435) discloses a backpack with rigid aluminum structure. Young (US 5,964,384) discloses a backpack with multiple compartments. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey N. Skurdal whose telephone number is 571-272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CNS

  
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SUPERVISORY PATENT EXAMINER